

Mexico and the Law of the Sea: Contributions and Compromises Book Review

Mexico and the Law of the Sea: Contributions and Compromises, by Jorge A. Vargas (Martinus Nijhoff, Leiden. Boston, 2011) ISBN: 978 90 04 20620 5, xxvi + 544pp.

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Much valuable scholarly material has been published on the United Nations Convention on the Law of the Sea, often referred to simply as “UNCLOS” or “The Constitution for the Oceans.” The focus of that scholarship has usually been on interpreting the Convention’s 320 separate Articles and substantive Annexes. Such sources are, of course, critical to individuals seeking to comply with the law of the sea or sovereigns charged with enforcing it.

In Chapter 1, Professor Vargas has taken a broader approach. As background he lays out the long history of Mexico’s territorial claims both on land and at sea, including a thorough explanation of present Mexican claims to maritime zones and national legislation establishing

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them and providing for their administration. That discussion, including statutory and regulatory appendices such as the Federal Oceans Act (in English), will be particularly useful to non-citizens who seek permission to conduct commercial and scientific activities in Mexican waters.

Chapter 2 will be equally useful to other governments involved in implementing UNCLOS through their domestic legal systems. Having been a member of the Mexican delegation to the conferences, which produced UNCLOS, Professor Vargas, not surprisingly, uses Mexican law in identifying issues which may be encountered, and how they might be dealt with in the implementation of international law through domestic legislation. Probably no two sovereigns will face the identical stumbling blocks but Vargas' process will be helpful to governments around the world as they mold domestic law to take advantage of the benefits, and meet the obligations, of UNCLOS.

Next, the volume tells the story of how consensus was reached on what had, at one time, appeared to be irresolvable controversies. In Chapter 3, *"Genesis and Development of the Exclusive Economic Zone in Latin America,"* Vargas lays out the process that was followed by Latin American and African sovereigns in putting together a proposal which protected their interests in what they had previously referred as the 200 nautical mile "Patrimonial Sea" but was also acceptable to sovereigns anxious to retain traditional rights to a maximum "Freedom of the Seas." This discussion will be as useful to political scientists and international negotiators no matter what the subject at issue. The volume is replete with similar examples.

American scientists, fishermen, and offshore oil and gas producers will find Chapters 3, 4 and 5 of great practical value. Americans have long engaged in research off the Mexican coasts in each of these areas. But UNCLOS Articles 245 and 246 make clear that the coastal States have the right to regulate such activities in their territorial seas, exclusive economic zones and on their continental shelves. As the author points out, "no other country in the world grants more marine scientific research permits to U.S. vessels than does Mexico."

Chapter 5, entitled *"Marine Scientific Research in Mexico, Its Legal Regime under Mexican Law and International Law,"* is a very thorough discussion of Mexico's permitting, and oversight of, scientific research in its coastal waters. The chapter contains useful advice for scientists interested in taking advantage of such opportunities and for sovereigns interested in adopting similar programs.

Chapter 4 deals with the seaward boundaries of Mexico's zones of maritime jurisdiction, identifying those boundaries, explaining the process through which they were determined and discussing a potentially

controversial stretch of straight baselines from which those boundaries are measured in the Gulf of California.

Sovereigns whose land boundaries are adjacent and extend to the sea are always faced with the question of how those land boundaries are to be extended seaward to separate their offshore interests. Chapter 4 also considers those lateral boundaries that have been agreed upon by treaties negotiated between Mexico and the United States to extend the land boundaries of the two sovereigns in the Pacific and Gulf of Mexico to separate their respective territorial seas, exclusive economic zones and continental shelves. The history of Mexico's similar agreement with Honduras, and a related "opposite State" boundary with Cuba are also discussed.

Finally, Professor Vargas looks to the future with two purposes. First, he opines as to where entrepreneurial and scientific interests may expand off the Mexican coast, concluding that those interests may well lie on, and around, Mexico's innumerable offshore islands. Second, he identifies means by which the present positive relations between Mexico and United States in the maritime arena might even be improved.

Chapter 6, *Mexico's Islands: Mirage or Reality?* is a thorough and fascinating history of the role of islands in the history of Mexico. It begins in the 16th century, continues through the development of the Mexican State, including the Constitutional and statutory treatment of islands under Mexican law, and concludes with a discussion of the factors which lead to the author's belief that future economic growth and scientific interest may focus on islands and their adjacent waters.

Regarding the improvement of US/Mexico cooperation in offshore activities, the author proposes 11 specific and well thought out "Recommendations For The Future." For the most part these involve greater cooperation between government agencies, scientific institutions and academic institutions. Readers who are in a position to foster such cooperation—especially as involves the more efficient and widespread exchange of scientific research—will find the proposals thought provoking.

Finally, Professor Vargas has collected, and included in this volume, a vast array of documents relevant to his discussion and otherwise difficult to come by. Others working in the area will surely find them useful.

UNCLOS was the most extensive undertaking of its kind in modern diplomacy. In the beginning—and throughout the extensive process—the participants had to have been asking themselves "how will we ever find a road map to guide us through this myriad of issues and conflicting

positions on each?" By the end, they had achieved international consensus on solutions which will govern two-thirds of the earth's surface by the rule of law. Yet I expect that they asked themselves then "how in the world did we do it?"

Professor Vargas' volume goes a long way in explaining how this enormously important step in the law of the sea was accomplished. The rest of us must now do what we can to assure that the international goodwill which produced UNCLOS will continue through its implementation.